

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

C O R A M

THE HONOURABLE MR.JUSTICE S. MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.M.A.NOS.1289 TO 1292 OF 2017
&
C.M.P.Nos.6650 to 6653 of 2017

United India Insurance Co.Ltd
No.28, Mailam Road,
Meenakshi Complex, II Floor,
Tindivanam Taluk,
Villupuram District.

... Appellant in all the Appeals

Vs.

1.S.Muruvammal ...1st respondent in C.M.A.1289 of 2017
Krishnan ...1st respondent in C.M.A.1290 of 2017
Elumalai ...1st respondent in C.M.A.1291 of 2017
Arumugam ...1st respondent in C.M.A.1292 of 2017
2.Ponnusamy ...2nd Respondent in all the Appeals

PRAYER: Appeals filed under section 173 of the Motor Vehicles Act 1988 against the judgment and decree dated 01.06.2015 made in M.C.O.P.Nos.3566, 3395, 3396 and 3397 of 2012, on the file of Motor Accident Claims Tribunal (VI Court of Small Causes) Chennai.

For Appellant : Mr.S.Arunkumar
(in all Appeals)

For Respondent-1 : Mr.F.Terrychellaraja
(in all Appeals) for Mr.V.Velu

C O M M O N J U D G M E N T
(JUDGMENT OF THE COURT WAS MADE BY S.MANIKUMAR, J.)

That on 7/5/2011, about 18.00 hours, when one Krishnan, along with his friends Elumalai and Arumugam, walking with a

punctured bike, bearing Registration No.PY01Z-5736, from Villivakkam to Chunambumedu road, a passenger auto, bearing Registration No.TN32T-8627, belonging to N.Ponnusamy/second respondent and insured with the United India Insurance Company Limited, Villupuram District, driven by its driver in a rash and negligent manner, dashed against them, causing injuries to Krishnan, Elumalai, Arumugam and a passenger in the auto Muruvammal.

2. Injured Krishnan, Elumalai, Arumugam and Muruvammal, filed separate claim petitions before the Motor Accidents Claims Tribunal (VI Court of Small Causes), Chennai, in M.C.O.P.Nos.3395, 3396, 3397 and 3566 of 2012, claiming compensation of Rs.20,00,000/-, 20,00,000/-, Rs.10,00,000/- and Rs.20,00,000/-, respectively,

3. As evidence adduced is common in all the claim petitions, they were tried together and a common award has been passed on 1/6/2015, holding that the auto driver was negligent in causing the accident and consequently the Tribunal, fastened the liability on the insurance Company.

4. At the time of accident, the injured are Mason, Carpenter, Painter and Tailor, respectively and said to have earned Rs.9,000/- p.m. Based on the oral and documentary evidence, the Tribunal determined the extent of disablement in each case as 50%. Applying the same, with the multiplicand and appropriate multiplier, the Tribunal awarded, Rs.14,00,000/- in MCOP No.3566/2012; Rs.14,00,000/- in MCOP No.3395/2012; Rs.13,00,000/- in MCOP No.3396/2012; and Rs.14,00,000/- in MCOP No.3397/2012 respectively, under various heads, with interest at the rate of 7.5% per annum, from the date of petitions till the date of deposit.

5. Contending inter alia that the quantum of compensation is on the higher side, United India Insurance Company Limited have filed the instant appeals.

6. We have gone through the award. Today, when the matters were taken up for hearing, we requested the learned counsel for both parties to consider the award made in each case under various heads, on the principle of just compensation. Going through the same and after deliberation, learned counsel for the parties on consensus, agreed that compensation awarded by the Tribunal should be arrived at as hereunder:

In C.M.A.No.1289 of 2017 (M.C.O.P.No.3566 of 2012)	
Medical expenses	... Rs. 77,300
Loss of income	... Rs. 45,000 (7500 x6)
Transportation	... Rs. 15,000

Extra nourishment	...	Rs.	35,000
Attender charges	...	Rs.	35,000
Damage to clothes	...	Rs.	1,000
Loss of future earning capacity	...	Rs.	8,64,000
Pain and sufferings	...	Rs.	60,000
Loss of amenities of life	...	Rs.	90,000
Loss of expectation of life	...	Rs.	25,000
Disability (70%)	...	Rs.	1,40,000

			Rs.13,87,300

Compensation awarded by the Tribunal	Rs.14,00,000/-
Consented amount	Rs.13,87,300/-

Reduction	Rs. 12,700/-

In C.M.A.No.1290 of 2017 (M.C.O.P.No.3395 of 2012)

Medical expenses	...	Rs.	44,000
Loss of income	...	Rs.	90,000 (7500 x12)
Transportation	...	Rs.	25,000
Extra nourishments	...	Rs.	10,000
Attender charges	...	Rs.	25,000
Damage to clothes	...	Rs.	1,000
Loss of future earning capacity	...	Rs.	8,64,000
Pain and sufferings	...	Rs.	25,000
Loss of amenities of life	...	Rs.	25,000
Disability (70%)	...	Rs.	1,40,000

			Rs.12,49,000

Compensation awarded by the Tribunal	Rs.14,00,000/-
Amount agreed upon by parties	Rs.12,49,000/-

Reduction	Rs. 1,51,000/-

In C.M.A.No.1291 of 2017 (M.C.O.P.No.3396 of 2012)

Medical expenses	...	Rs.	45,000
Loss of income	...	Rs.	45,000 (7500 x6)
Transportation	...	Rs.	25,000
Extra nourishments	...	Rs.	25,000
Attender charges	...	Rs.	25,000
Damage to clothes	...	Rs.	1,000
Loss of future earning capacity	...	Rs.	7,08,750
Pain and sufferings	...	Rs.	50,000

Loss of amenities of life	...	Rs. 50,000
Disability (70%)	...	Rs. 1,40,000

		Rs.10,74,750

Compensation awarded by the Tribunal		Rs.13,00,000/-
Amount arrived at by parties		Rs.10,74,750/-

Reduction		Rs. 2,25,250/-

In C.M.A.No.1292 of 2017 (M.C.O.P.No.3397 of 2012)

Medical expenses	...	Rs. 5,000
Loss of income	...	Rs. 90,000 (7500 x6)
Transportation	...	Rs. 25,000
Extra nourishments	...	Rs. 25,000
Attender charges	...	Rs. 25,000
Damage to clothes	...	Rs. 1,000
Loss of future earning capacity	...	Rs. 4,00,000
Pain and sufferings	...	Rs. 50,000
Disability (35%)	...	Rs. 70,000

		Rs. 6,91,000

Compensation awarded by the Tribunal		Rs.14,00,000/-
Agreed amount		Rs. 6,91,000/-

Reduction		Rs. 7,09,000/-

7. In view of consensus arrived, at between the parties,

(i) Claimant in M.C.O.P.No.3566 of 2012 (C.M.A.No.1289 of 2017) is entitled to Rs.13,87,300/- as against Rs.14,00,000/-;

(ii) Claimant in M.C.O.P.No.3395 of 2012 (C.M.A.No.1290 of 2017) is entitled to Rs.12,49,000/-, as against Rs.14,00,000/- ;

(iii) Claimant in M.C.O.P.No.3396 of 2012 (C.M.A.No.1291 of 2017) is entitled to Rs.10,74,750/- as against Rs.13,00,000/- ; and

(iv) Claimant in M.C.O.P.No.3397 of 2012 (C.M.A.No.1292 of 2017) is entitled to Rs.6,91,000/- as against Rs.14,00,000/-, awarded by the Tribunal, with interest, at the rate of 7.5% per annum, from the date claim till deposit.

8. It is represented by the learned counsel for the United India Insurance Company Limited that amount awarded by the Tribunal, with proportionate interest and costs has already been deposited, to the credit of concerned M.C.O.Ps.

9. In view of the above, the respondents / claimants are permitted to withdraw the modified amount of Rs.13,87,300/-, Rs.12,49,000/-, Rs.10,74,750/- and Rs.6,91,000/- respectively, with interest at the rate of 7.5% p.a. The Tribunal is directed to refund the excess amount, lying in the credit of M.C.O.P.Nos.3566, 3395, 3396 and 3397 of 2012 to the appellant / United India Insurance Company Limited.

10. The Civil Miscellaneous Appeals are allowed, as indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

mvs/tk

8th June 2017

For Clarification

These Petitions having been posted on Thursday, the Fifteenth day of June 2017 for clarification in pursuance of the Order of this Court dated 08.06.2017 made in C.M.A.Nos.1289 to 1292 of 2017 in the presence of the aforesaid advocates, this Court made the following Order:-

This matter is listed today under the caption "for clarification".

On the aspect of disability and compensation awarded in MCOP No.3566 of 2012 (C.M.A.No.1289 of 2017) submissions were made and no further clarifications are required.

TK

15.06.2017

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The VI Judge,
Small Causes Court,
Motor Accident Claims Tribunal
Chennai.

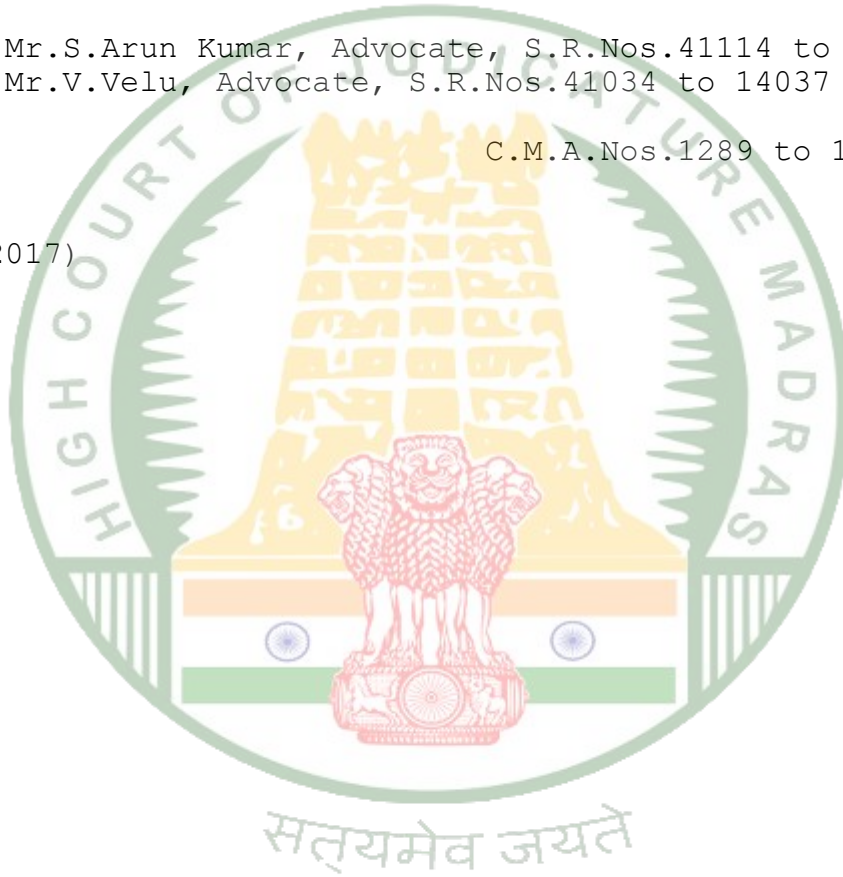
2.The Section Officer,
V.R.Section,
High Court, Madras 104.

+4cc's to Mr.S.Arun Kumar, Advocate, S.R.Nos.41114 to 41117

+4cc's to Mr.V.Velu, Advocate, S.R.Nos.41034 to 14037

C.M.A.Nos.1289 to 1292 of 2017

KJI (CO)
CA(20/07/2017)



WEB COPY